

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 323 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

N.P. SONI

Versus

BANK OF BARODA & OTHERS

Appearance:

MR RJ OZA for the Petitioner

MR RM DESAI for the Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 06/09/96

ORAL JUDGEMENT

1. The petitioner, an Officer of the Bank of Baroda filed this writ petition before this Court challenging thereunder the order annexure 'A' under which he has been transferred and the orders annexures 'D', 'G' and 'H' under which he has been given the punishment after holding the departmental inquiry on an alleged misconduct. Annexure 'A' is dated 16-10-1975 and it has been issued under the caption Staff - Transfer - Mr.N.P.

Soni Agent. Under annexure 'D' the petitioner has been given the penalty of reduction by one stage in the time scale with effect from the date of the order. Under annexure 'G' the penalty of reduction by three stages in the time scale with effect from the date of the order has been given. Under annexure 'H', the effect has been given to the punishment orders. Two separate chargesheets were given to the petitioner for the misconduct alleged against him and the inquiry has been held. The inquiry officer has found all the charges proved, and after taking into consideration the inquiry report, the petitioner has been given the punishment as stated earlier under the impugned orders.

2. The learned counsel for the petitioner challenging the order annexure 'A' contended that the petitioner has been transferred from the post of agent to the post of an officer. The petitioner was posted as an agent and under the said order he has been ordered to be transferred to Radhanpur Branch, Dist. Banaskantha, North Gujarat as an officer, and it was stated to be a reversion. The learned counsel for the petitioner on the question put to him by the court, has admitted that the pay-scales of the agent and the officer are the same. The counsel for the petitioner further admits that by this transfer the petitioner does not suffer any monetary loss. He gets the same emoluments which he was getting as an agent in another branch. What he stated is that it is a loss of status, but he is unable to illustrate how it is a loss of status.

3. On the other hand, the counsel for the respondent contended that both the posts are of equal status and interchangeable. It has further been contended that it is a simple transfer and not the reversion.

4. When there is no monetary loss whatsoever and the petitioner has been transferred in the same pay-scale, I fail to see how it can be termed as an order of reversion. The challenge to the order annexure 'A' by the petitioner is wholly misconceived. Otherwise also, this order has been given on 16th October, 1975 and it has been challenged in the year 1984. The delay in challenging the said order is also fatal in the present case. So both on merits as well as on delay and laches, the challenge made by the petitioner to the order annexure 'A' is not sustainable.

5. So far as the challenge to the orders of punishment are concerned, the only contention made by the learned counsel for the petitioner is that the copy of

the written submissions made by the presenting officer were not given to the petitioner, and as such, the inquiry is vitiated. I do not find any substance in this contention also. The learned counsel for the petitioner has failed to point out any provision from the Bank of Baroda Officer Employees' (Discipline and Appeal) Regulations, 1976 under which the provision has been made for giving of a copy of the written submissions. Otherwise also, the learned counsel for the petitioner has failed to point out how any prejudice has been caused to the petitioner for non giving of the copy of written submissions.

6. The counsel for the respondent, on the other hand, contended that the oral arguments have been advanced before the Inquiry Officer. The petitioner has not made any such grievance before the disciplinary authority or he has not made any grievance before the Inquiry Officer. In case, where the petitioner considers that a copy of written submissions is must then he should have raised that point then and there and should not have waited to raise this point in this Special Civil Application. It is not in dispute that the inquiry report is dated 11th May, 1981 and the order has been made on 24th March, 1983 by the disciplinary authority. In between this long gap, the petitioner has not made any grievance that the copy of written submissions were not given to him. Same is the case with the second inquiry, where there is a gap of about one year in between the inquiry report and the order of penalty. The very fact that the petitioner has never raised this point either before the inquiry officer or before the disciplinary authority gives out that he was not considering it to be of any substance or causing any prejudice to him. Such a plea which has been raised by the petitioner first time before this court cannot be permitted to be raised.

7. In the result, this Special Civil Application fails and the same is dismissed. Rule discharged. Ad-interim relief, if any, granted by this Court stands vacated.